

EXHIBIT 135

REDACTED

In the Matter Of:

USA vs

Google

ERIC HOCHBERGER

September 22, 2023



Highly Confidential

Eric Hochberger - September 22, 2023

<p>1 UNITED STATES DISTRICT COURT</p> <p>2 FOR THE EASTERN DISTRICT OF VIRGINIA</p> <p>3 ALEXANDRIA DIVISION</p> <p>4</p> <p>5 UNITED STATES OF AMERICA, et al,)</p> <p>6)</p> <p>7 Plaintiff,)No.</p> <p>8)1:23-cv-00108</p> <p>9 vs.)-LMB-JFA</p> <p>10)</p> <p>11 GOOGLE, LLC,)</p> <p>12)</p> <p>13 Defendant.)</p> <p>14 -----</p> <p>15 *** HIGHLY CONFIDENTIAL ***</p> <p>16 VIDEOTAPED DEPOSITION OF ERIC HOCHBERGER</p> <p>17 Fort Lauderdale, Florida</p> <p>18 Friday, September 22, 2023</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Reported by:</p> <p>24 LISA M. MURACO</p> <p>25 JOB NO. 911742</p>	<p>1 A P P E A R A N C E S:</p> <p>2</p> <p>3 U.S. DEPARTMENT OF JUSTICE</p> <p>4 ANTITRUST DIVISION</p> <p>5 950 Pennsylvania Avenue</p> <p>6 Washington, D.C. 20530</p> <p>7 BY: MICHAEL FREEMAN, ESQ.</p> <p>8 Michael.freeman@usdoj.gov</p> <p>9 MILOSZ GUDZOWSKI, ESQ.</p> <p>10 Milosz.gudzowski@usdoj.gov</p> <p>11</p> <p>12</p> <p>13 AXINN VELTROP & HARDRIDER</p> <p>14 Attorneys for GOOGLE</p> <p>15 1901 L Street NW</p> <p>16 Washington, DC 20036</p> <p>17 BY: KENINA LEE, ESQ.</p> <p>18 Klee@axinn.com</p> <p>19 SAM SHERMAN, ESQ.</p> <p>20 Ssherman@axinn.com</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1</p> <p>2 Friday, September 22, 2023</p> <p>3 9:00 a.m.</p> <p>4</p> <p>5 VIDEOTAPED Deposition of ERIC</p> <p>6 HOCHBERGER, held at the Fort Lauderdale</p> <p>7 Marriott North, 6650 N Andrews Ave, Fort</p> <p>8 Lauderdale, FL 33309, before LISA M.</p> <p>9 MURACO, a Notary Public of the State of</p> <p>10 Florida, New York, and Massachusetts.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 A P P E A R A N C E S:</p> <p>2</p> <p>3 PRYOR CASHMAN</p> <p>4 Attorneys for Witness</p> <p>5 7 Times Square</p> <p>6 40th Floor</p> <p>7 New York, NY 10036</p> <p>8 BY: KAVERI ARORA, ESQ.</p> <p>9 Karora@pryorcashman.com</p> <p>10</p> <p>11 ALSO PRESENT:</p> <p>12 Legal Video Specialist, JEFF ABRAMS</p> <p>13 General Counsel, Jamie Leiberman, for Mediavine</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p>5</p> <p>1 IT IS HEREBY STIPULATED AND AGREED</p> <p>2 by and between the attorneys for the</p> <p>3 respective parties herein, that filing and</p> <p>4 sealing be and the same are hereby waived.</p> <p>5 IT IS FURTHER STIPULATED AND AGREED</p> <p>6 that all objections, except as to the form</p> <p>7 of the question, shall be reserved to the</p> <p>8 time of the trial.</p> <p>9 IT IS FURTHER STIPULATED AND AGREED</p> <p>10 that the within deposition may be sworn to</p> <p>11 and signed before any officer authorized</p> <p>12 to administer an oath, with the same</p> <p>13 force and effect as if signed and sworn</p> <p>14 to before the Court.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19 - oOo -</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>7</p> <p>1 Google.</p> <p>2 MS. ARORA: Kaveri Arora from Pryor</p> <p>3 Cashman on behalf of the witness.</p> <p>4 MS. LEIBERMAN: Jamie Leiberman from</p> <p>5 Mediavine.</p> <p>6 THE VIDEOGRAPHER: The court</p> <p>7 reporter is Lisa Muraco, and she will now</p> <p>8 swear in the witness.</p> <p>9 * * *</p> <p>10 ERIC HOCHBERGER, called</p> <p>11 as a witness, having been duly sworn by a</p> <p>12 Notary Public, was examined and testified</p> <p>13 as follows:</p> <p>14 EXAMINATION BY</p> <p>15 MR. FREEMAN:</p> <p>16 Q. Thank you.</p> <p>17 Good morning.</p> <p>18 A. Good morning.</p> <p>19 Q. We met off the record. But my name</p> <p>20 is Mike, and this is my cocounsel Milosz.</p> <p>21 So can you please state your name,</p> <p>22 spelling both your first and last name for the</p> <p>23 record.</p> <p>24 A. Yes. Eric Hochberger. E-R-I-C,</p> <p>25 H-O-C-H-B-E-R-G-E-R.</p>
<p>6</p> <p>1 THE VIDEOGRAPHER: We are now on the</p> <p>2 record. My name is Jeff Abrams. I'm the</p> <p>3 videographer retained by Lexitas.</p> <p>4 This is a video deposition for the</p> <p>5 United States District Court for the</p> <p>6 Eastern District of Virginia. Today's date</p> <p>7 is September 22, 2023, and the video time</p> <p>8 is 9:07 a.m.</p> <p>9 This deposition is being held at</p> <p>10 Fort Lauderdale Marriott North in Fort</p> <p>11 Lauderdale, Florida, in the matter of</p> <p>12 United States of America, et al.,</p> <p>13 Plaintiff, versus Google, LLC, Defendant.</p> <p>14 The deponent is Eric Hochberger.</p> <p>15 All counsel will be noted on the</p> <p>16 stenographic record.</p> <p>17 Would all counsel please identify</p> <p>18 themselves.</p> <p>19 MR. FREEMAN: Michael Freeman on</p> <p>20 behalf of the Department of Justice.</p> <p>21 MR. GUDZOWSKI: Milosz Gudowski for</p> <p>22 the Department of Department of Justice.</p> <p>23 MR. SHERMAN: Sam Sherman on behalf</p> <p>24 of Google.</p> <p>25 MS. LEE: Kenina Lee on behalf of</p>	<p>8</p> <p>1 Q. Have you ever been deposed before,</p> <p>2 sir?</p> <p>3 A. I have not.</p> <p>4 Q. Have you ever testified in any trial</p> <p>5 or arbitration?</p> <p>6 A. I have not.</p> <p>7 Q. All right.</p> <p>8 So it kind of goes without saying,</p> <p>9 but you were just placed under oath, which is</p> <p>10 you're expected to tell the truth and that</p> <p>11 anything you say today can be used in any</p> <p>12 civil, criminal, or administrative proceeding.</p> <p>13 You're aware of that?</p> <p>14 A. Yup.</p> <p>15 Q. And as you can see, there's lots of</p> <p>16 equipment in the room. It's being recorded</p> <p>17 both by the court reporter and the</p> <p>18 videographer.</p> <p>19 So it's important that we don't talk</p> <p>20 over each other. You know, we'll be here for</p> <p>21 probably several hours. And just if you can</p> <p>22 wait until I finish my question, and I'll let</p> <p>23 you fully answer.</p> <p>24 It's just really difficult to type</p> <p>25 while people are talking at the same time, all</p>

21

8 Q. Just at a high level, what does
9 Mediavine do?

10 **A. At a high level, we help independent**
11 **publishers monetize their websites through**
12 **advertising.**

13 Q. Do you also own and operate your own
14 websites, which in this world would be
15 publishers?

16 **A. Yes, we own and operate a few of our**
17 **own properties as well.**

23

15 Q. So obviously, we're here to talk
16 about Google, at least part of it.

17 So when was the last time you talked
18 to someone at Google?

19 MS. LEE: Objection. Form.

20 **A. What form of communication?**

21 Q. Any form.

22 So I guess we can break it down.

23 When was the last time you've had
24 any telephone call with someone at Google?

25 **A. Over the summer.**

22

1 Q. Who did you speak to?

2 **A. Zach Kuney.**

3 Q. What is Zach's role within Google?

4 **A. I don't know his exact title. But**
5 **he works with partnerships.**

6 Q. What was the point of that
7 particular telephone call?

8 **A. So Zach and I have just quarterly**
9 **catch-ups.**

10 Q. Was anyone else on that call?

11 **A. No.**

12 Q. I don't know if this is different in
13 your mind.

14 When was the last time you had any
15 video conference with someone at Google?

16 **A. That call would've been video.**

17 Q. Then when was the last time you had
18 e-mail communication with someone at Google?

19 **A. Likely around the summer as well.**
20 **So within the last few months.**

21 Q. Who would that have been?

22 **A. Either Kelly or Yani (phonetic) are**
23 **my other two contacts there.**

24 Q. And to the best of your knowledge,
25 what do they do for Google?

24

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Q. Do the list of supply side partners

2 that I just listed reflect the current supply

3 side partners that Mediavine works with?

4 **A. To the best of my knowledge, they**

5 **do.**

6 MS. LEE: Thank you.

7 I don't have any further questions.

8 MR. FREEMAN: I don't have anything

9 further.

10 THE VIDEOGRAPHER: Everybody ready

11 to go off the record?

12 This concludes today's --

13 MS. ARORA: I don't have anything.

14 THE VIDEOGRAPHER: I'm sorry.

15 MS. ARORA: Thank you.

16 MR. FREEMAN: Do you want to mark it

17 as confidential or highly confidential?

18 MS. ARORA: Yes, I would like to

19 mark it as highly confidential.

20 THE VIDEOGRAPHER: Still on the

21 record?

22 MR. FREEMAN: Yes.

23 So just so we're wrapping up and

24 concluding, I spoke to, and counsel for the

25 witness has indicated that for the time

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C E R T I F I C A T E

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3 STATE OF FLORIDA)

4) ss.:

5 COUNTY OF PALM BEACH)

6 I, LISA M. MURACO, a Notary Public

7 within and for the State of New York,

8 Florida, and Massachusetts, do hereby

9 certify:

10 That ERIC HOCHBERGER, the witness

11 whose deposition is hereinbefore set forth,

12 was duly sworn by me and that such

13 deposition is a true record of the

14 testimony given by such witness.

15 I further certify that I am not

16 related to any of the parties to this

17 action by blood or marriage; and that I am


18 in no way interested in the outcome of this

19 matter.

20 IN WITNESS WHEREOF, I have hereunto

21 set my hand this 25th day of September,

22 2023.

23 

24 LISA M. MURACO

25

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being, pursuant to the protective order,

2 that the transcript be deemed highly

3 confidential.

4 Is that correct?

5 MS. ARORA: Yes. Thank you.

6 THE VIDEOGRAPHER: Everybody ready

7 to go off?

8 MR. FREEMAN: Yes.

9 MS. LEE: Yes.

10 THE VIDEOGRAPHER: The time is

11 1:16 p.m.

12 We are off the record.

13 (Time Noted: 1:16 p.m.)

14

15

16 -----

17 ERIC HOCHBERGER

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19 Subscribed and sworn to before me

20 this day of 2023.

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I N D E X

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4 WITNESS PAGE

5 ERIC HOCHBERGER

6 MR. FREEMAN 7

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12 E X H I B I T S

13 DESCRIPTION PAGE

14 Plaintiff's Exhibit 3, Screen Shot of 41

15 Mediavine's Website

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17 Plaintiff's Exhibit 1, Article 55

18

19 Plaintiff's Exhibit 2, Mediavine Blog 76

20 Post

21 Hochberger Defendant's Exhibit 1, 105

22 Mediavine Privacy Policy

23

24 Hochberger Defendant's Exhibit 2, Page 128

25 from Mediavine's Website